

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

HAYWARD INDUSTRIES, INC.,

Plaintiff, Counterclaim
Defendant

v.

BLUEWORKS CORPORATION,
BLUEWORKS INNOVATION
CORPORATION, NINGBO C.F.
ELECTRONIC TECH CO., LTD; NINGBO
YISHANG IMPORT AND EXPORT CO.,
LTD.

Defendants,
Counterclaim Plaintiffs.

Civil Action No. 3:20-CV-710 -MOC-DSC

**HAYWARD’S MOTION FOR SUMMARY JUDGMENT
ON ITS CLAIMS OF TRADEMARK INFRINGEMENT,
FALSE ADVERTISING, PASSING-OFF, AND UNFAIR COMPETITION**

COMES NOW Plaintiff Hayward Industries, Inc. (“Hayward”) and moves this Honorable Court pursuant to Fed. R. Civ. P. 56 for Summary Judgment on the following claims in its Amended Complaint, (Doc. No. 57):

1. Count I – False Advertising in Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a);
2. Count VI – Trademark Infringement of the TURBO CELL[®] Mark in Violation of 32(1) of the Lanham Act, 15 U.S.C. § 1114(1);
3. Count VII – Trademark Infringement of the T-CELL-3[®] Mark in Violation of 32(1) of the Lanham Act, 15 U.S.C. § 1114(1);
4. Count VIII – Trademark Infringement of the T-CELL-9[®] Mark in Violation of 32(1) of the Lanham Act, 15 U.S.C. § 1114(1);
5. Count IX – Trademark Infringement of the T-CELL-15[®] Mark in Violation of 32(1) of the Lanham Act, 15 U.S.C. § 1114(1);

6. Count XII – False Designation of Origin in Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) by Unauthorized Use of the TURBO CELL[®], T-CELL-3[®], T-CELL-9[®], and T-CELL-15[®] Trademarks;
7. Count XIII – False Designation of Origin in Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) by Unauthorized Use of the T-Cell[™] Trademarks;
8. Count XIV - Passing Off in Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a);
9. Count XVI – Unfair Competition and Trademark Infringement under North Carolina Common Law; and
10. Count XIX – Unfair or Deceptive Trade Practices in violation of N.C. Gen. Stat. § 75-1.1.

In support thereof, Hayward files a Memorandum of Law contemporaneously herewith.

Respectfully submitted this the 15th day of May, 2023,

HAYWARD INDUSTRIES, INC.

s/ Russ Ferguson

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